

PUBLIC CHAPTER NO. 588

SENATE BILL NO. 2253

By Kyle, Herron, Marrero

Substituted for: House Bill No. 2333

By Brown, Odom, Cooper

AN ACT to amend Tennessee Code Annotated, Title 68, Chapter 3, Part 2 and Title 68, Chapter 142, relative to mortality reviews.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 68-3-205, is amended in subsection (d)(2)(D) by adding the following language as an appropriately designated new subdivision:

() Upon receipt of a written request from a department representative authorized by the provisions of Title 68, Chapter 142, Part 1, to obtain such records.

SECTION 2. Tennessee Code Annotated, Section 68-142-101, is amended by deleting the word "chapter" and substituting instead the word "part".

SECTION 3. Tennessee Code Annotated, Section 68-142-103, is amended by adding the following language as an appropriately designated new subdivision:

() The Commissioner of Education or the commissioner's designee.

SECTION 4. Tennessee Code Annotated, Section 68-142-105, is amended by deleting the word "chapter" and substituting instead the word "part".

SECTION 5. Tennessee Code Annotated, Section 68-142-106, is amended in subsection (b) by deleting the word "and" at the end of subdivision (4); by designating the existing subdivision (5) as subdivision (6); and by adding the following language as a new subdivision (5):

() An employee of the local education agency, to be appointed by the director of schools.

SECTION 6. Tennessee Code Annotated, Section 68-142-107 is amended by deleting the word "chapter" and substituting instead the word "part".

SECTION 7. Tennessee Code Annotated, Section 68-142-108, is amended by deleting subsection (a) in its entirety and substituting instead the following language:

(a) The Department of Health, state team and local teams are public health authorities conducting public health activities pursuant to the federal Health Insurance Portability and Accountability Act (HIPAA). Notwithstanding the provisions of §§ 63-2-101(b) and 68-11-1502, and regardless of any express or implied contracts, agreements or covenants of confidentiality based upon those sections, the records of all health care facilities and providers shall be made available to the local team for inspection and copying as necessary to complete the review of a specific fatality and effectuate the intent of this part. The local team is authorized to inspect and copy any other records from any source as necessary to complete the review of a specific fatality and effectuate the intent of this part, including, but not limited to, police investigations data, medical examiner investigative data, vital records cause of death information, and social services records, including records of the Department of Children's Services.

SECTION 8. Tennessee Code Annotated, Section 68-142-108, is amended in subsection (b) by deleting the word "chapter" and substituting instead the word "part".

SECTION 9. Tennessee Code Annotated, Title 68, Chapter 142, Part 1, is amended by adding the following language as a new, appropriately designated section:

§ 68-142-110. Any person or facility acting in good faith in compliance with the provisions of this part shall be immune from civil and criminal liability arising from such action.

SECTION 10. Tennessee Code Annotated, Title 68, Chapter 142, Part 1, is amended by adding the following language as a new, appropriately designated section:

§ 68-142-111. Nothing in this part shall preclude any child death investigations or reviews to the extent authorized by other laws.

SECTION 11. Tennessee Code Annotated, Title 68, Chapter 142, is amended by adding Sections 10 through 20 of this act as a new part.

SECTION 12. This part shall be known as and may be cited as the "Tennessee Fetal and Infant Mortality Review (FIMR) Act of 2007".

SECTION 13. The Commissioner of Health is hereby authorized to create the Tennessee Fetal and Infant Mortality Review (FIMR) Program. The intent of the Tennessee FIMR Program, following the goals of the National Fetal and Infant Mortality Review Program, is to enhance the health and well-being of women, infants, and families by improving community resources and service

programs through the review of fetal and infant deaths and the identification of related social, economic, cultural, safety, and health issues.

SECTION 14. As used in this part,

(1) "FIMR" refers to the Tennessee Fetal and Infant Mortality Review Program.

(2) "Fetal death" means a death as described in Tennessee Code Annotated, § 68-3-504.

(3) "Infant death" means a person born alive who dies prior to reaching one year of age.

SECTION 15. The Commissioner of Health is authorized to promulgate such rules, pursuant to the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, as are necessary to carry out the intent of this part. In doing so, the commissioner may rely upon, but not be bound by, the National Fetal and Infant Mortality Review Program's methodology and protocol. The rules authorized pursuant to this section may address, but not be limited to the following:

(1) The creation, composition and functions of review teams, community action teams and program staffing;

(2) The protocols, procedures, methods, manner and extent of all investigations and reviews; and

(3) The manner in and extent to which information shall be disseminated in accordance with the intent of this part.

SECTION 16. (a) The Department of Health, FIMR, and its review teams are public health authorities conducting public health activities pursuant to the Health Insurance Portability and Accountability Act (HIPAA). Notwithstanding the provisions of §§ 63-2-101(b) and 68-11-1502, and regardless of any express or implied contracts, agreements or covenants of confidentiality based upon those sections, the records of all health care facilities and medical services providers, case management providers, emergency medical personnel and transport services and home visitors shall be made available to FIMR for inspection and copying as necessary to complete the review of a specific fatality and to carry out the intent of this part. The program is authorized to inspect and copy any other records from any source as necessary to complete the review of a specific fatality and to carry out the intent of this part, including, but not limited to, medical examiner investigative records and data, social services records, including records of the Department of Children's Services, vital records information, and educational records.

(b) Any meetings conducted pursuant to this part or to rules and regulations promulgated under this part shall not be subject to the provisions of Title 8, Chapter 44, Part 1. Except as required to be

disseminated by rules and regulations promulgated pursuant to this part, any meeting minutes, documents, records, or other information acquired, generated, or reviewed during such meetings or while otherwise carrying out FIMR duties and responsibilities shall be confidential and not be subject to disclosure as public records.

(c) Except as required to be disseminated by rules and regulations promulgated pursuant to this part, none of the information acquired, generated, or reviewed in subsection (b) is subject to discovery or introduction into evidence in any proceeding, nor may any person testify in any proceeding about such information or the opinions formed as a result of the review of such information. This subsection (c) shall not, however, prohibit a person from testifying in a civil or criminal action about matters within that person's independent knowledge.

(d) All persons involved in the review process pursuant to this part, or to rules promulgated under this part, shall sign a statement indicating an understanding of and adherence to confidentiality requirements, including the possible civil or criminal consequences of any breach of confidentiality.

SECTION 17. To the extent that funds are available, the department may employ or contract with such persons as deemed necessary to effectuate the intent of this part.

SECTION 18. Any person or facility acting in good faith in compliance with the provisions of this part shall be immune from civil and criminal liability arising from such action.

SECTION 19. Nothing in this part shall preclude any fetal, infant or child death investigations or reviews to the extent authorized by other laws.

SECTION 20. Nothing in this act shall be construed as requiring its implementation unless and until sufficient funding is either appropriated or specifically allocated for it.

SECTION 21. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: June 11, 2007



RON RAMSEY
SPEAKER OF THE SENATE



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 28th day of June 2007



PHIL BREDESEN, GOVERNOR